

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 794 Session of 2015

INTRODUCED BY GILLESPIE, SCHREIBER, SAYLOR, MOUL, McNEILL, A. HARRIS, LONGIETTI, MASSER, MURT, SCHWEYER, PHILLIPS-HILL, DIAMOND, KLUNK, SCHLOSSBERG, D. COSTA, ROZZI, COHEN, RADER, GROVE, SONNEY, REGAN, IRVIN, PAYNE, TALLMAN, HARHAI, JAMES, MAHONEY AND KIRKLAND, MARCH 13, 2015

AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 13, 2015

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,  
2 as amended, "An act relating to counties of the first, third,  
3 fourth, fifth, sixth, seventh and eighth classes; amending,  
4 revising, consolidating and changing the laws relating  
5 thereto; relating to imposition of excise taxes by counties,  
6 including authorizing imposition of an excise tax on the  
7 rental of motor vehicles by counties of the first class; and  
8 providing for regional renaissance initiatives," in fiscal  
9 affairs, repealing provisions relating to authorization of  
10 excise tax and authorization of hotel tax; and providing for  
11 hotel room rental tax in third through eighth class counties  
12 and for certification of recognized tourist promotion  
13 agencies.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Sections 1770.2 and 1770.6 of the act of August  
17 9, 1955 (P.L.323, No.130), known as The County Code, amended or  
18 added December 22, 2000 (P.L.1019, No.142) and July 5, 2005  
19 (P.L.38, No.12), are repealed:

20 [Section 1770.2. Authorization of Excise Tax.--(a) The  
21 county commissioners of any county which has a recognized

1 tourist promotion agency designated to act within the county may  
2 impose an excise tax not to exceed three per centum of the  
3 consideration received by each operator of a hotel within the  
4 county from each transaction of renting a room or rooms to  
5 transients. The tax shall be collected by the operator from the  
6 patron of the room or rooms and paid over to the county as  
7 herein provided.

8 (b) The county commissioners may by ordinance impose  
9 requirements for keeping of records, the filing of tax returns  
10 and the time and manner of collection and payment of tax. The  
11 county commissioners may also impose by ordinance penalties and  
12 interest for failure to comply with recordkeeping, filing,  
13 collection and payment requirements.

14 (c) The treasurer of each county electing to impose the tax  
15 authorized under this section shall collect the tax and deposit  
16 the revenues received from the tax in a special fund established  
17 for that purpose. After deducting from the fund any direct or  
18 indirect costs attributable to collection of the tax, the county  
19 shall distribute to the recognized tourist promotion agency  
20 designated to act within the county all revenues received from  
21 the tax not later than sixty days after receipt of the tax  
22 revenues. The revenues from the special fund shall be used by  
23 the recognized tourist promotion agency for any or all of the  
24 following purposes:

25 (1) Convention promotion.

26 (2) Marketing the area served by the agency as a leisure  
27 travel destination.

28 (3) Marketing the area served by the agency as a business  
29 travel destination.

30 (4) Using all appropriate marketing tools to accomplish

1 these purposes, including, but not limited to, advertising,  
2 publicity, publications, direct marketing, direct sales and  
3 participation in industry trade shows.

4 (5) Projects or programs that are directly and substantially  
5 related to tourism within the county, augment and do not unduly  
6 compete with private sector tourism efforts and improve and  
7 expand the county as a destination market.

8 (6) Any other tourism marketing or promotion program deemed  
9 necessary by the recognized tourist promotion agency.

10 (d) The tax year for a tax imposed under this section shall  
11 run concurrently with the calendar year.

12 (e) An audited report on the income and expenditures  
13 incurred by a recognized tourist promotion agency receiving any  
14 revenues from the tax authorized under this section shall be  
15 submitted annually by the recognized tourist promotion agency to  
16 the county commissioners.

17 (e.1) Notwithstanding any other provision of subsection (b)  
18 or any other provision of law to the contrary, in counties of  
19 the third class having a population under the 1990 Federal  
20 Decennial Census in excess of 415,000 residents but less than  
21 500,000 residents, a penalty of one and one-half per centum per  
22 month shall be imposed for failure to timely remit the tax  
23 authorized by this section. In addition to other remedies  
24 available for collection of debts, the county may also file a  
25 lien upon the hotel in the name of and for the use of the county  
26 as provided by law for municipal claims.

27 (f) As used in this section, the following words and phrases  
28 shall have the meanings given to them in this subsection:

29 "Consideration." Receipts, fees, charges, rentals, leases,  
30 cash, credits, property of any kind or nature, or other payment

1 received by operators in exchange for or in consideration of the  
2 use or occupancy by a transient of a room or rooms in a hotel  
3 for any temporary period.

4 "County." Any county which is on the effective date of this  
5 act a county of the third class having a population under the  
6 1990 Federal Decennial Census in excess of 337,000 residents,  
7 but less than 341,000 residents, or a county of the third class  
8 having a population under the 1990 Federal Decennial Census in  
9 excess of 374,000 residents, but less than 380,000 residents, or  
10 a county of the third class having a population under the 1990  
11 Federal Decennial Census in excess of 415,000 residents, but  
12 less than 500,000 residents, or a county of the fourth class  
13 having a population under the 1990 Federal Decennial Census in  
14 excess of 159,000 residents, but less than 175,000 residents, or  
15 a county of the fifth class having a population under the 1990  
16 Federal Decennial Census in excess of 123,000 residents, or a  
17 county of the fifth class having a population under the 1990  
18 Federal Decennial Census in excess of 117,000 residents, but  
19 less than 121,050 residents, or a county of the sixth class  
20 having a population under the 1990 Federal Decennial Census in  
21 excess of 87,000 residents.

22 "Hotel." A hotel, motel, inn, guest house or other structure  
23 which holds itself out by any means, including advertising,  
24 license, registration with an innkeepers' group, convention  
25 listing association, travel publication or similar association  
26 or with a government agency, as being available to provide  
27 overnight lodging or use of facility space for consideration to  
28 persons seeking temporary accommodation; any place which  
29 advertises to the public at large or any segment thereof that it  
30 will provide beds, sanitary facilities or other space for a

1 temporary period to members of the public at large; or any place  
2 recognized as a hostelry. The term does not include any portion  
3 of a facility that is devoted to persons who have an established  
4 permanent residence or a college or university student residence  
5 hall or any private campground, or any cabins, public  
6 campgrounds or other facilities located on State land.

7 "Occupancy." The use or possession or the right to the use  
8 or possession by any person other than a permanent resident of  
9 any room in a hotel for any purpose or the right to the use or  
10 possession of the furnishings or to the services accompanying  
11 the use and possession of the room.

12 "Operator." An individual, partnership, nonprofit or profit-  
13 making association or corporation or other person or group of  
14 persons who maintain, operate, manage, own, have custody of or  
15 otherwise possess the right to rent or lease overnight  
16 accommodations in a hotel to the public for consideration.

17 "Patron." A person who pays the consideration for the  
18 occupancy of a room or rooms in a hotel.

19 "Permanent resident." A person who has occupied or has the  
20 right to occupancy of a room or rooms in a hotel as a patron or  
21 otherwise for a period exceeding thirty consecutive days.

22 "Recognized tourist promotion agency." The nonprofit  
23 corporation, organization, association or agency which is  
24 engaged in planning and promoting programs designed to stimulate  
25 and increase the volume of tourist, visitor and vacation  
26 business within counties served by the agency as that term is  
27 defined in the act of April 28, 1961 (P.L.111, No.50), known as  
28 the "Tourist Promotion Law."

29 "Room." A space in a hotel set aside for use and occupancy  
30 by patrons, or otherwise, for consideration, having at least one

1 bed or other sleeping accommodation in a room or group of rooms.

2 "Transaction." The activity involving the obtaining by a  
3 transient or patron of the use or occupancy of a hotel room from  
4 which consideration is payable to the operator under an express  
5 or an implied contract.

6 "Transient." An individual who obtains accommodation in a  
7 hotel by means of registering at the facility for the temporary  
8 occupancy of a room for the personal use of the individual by  
9 paying a fee to the operator.

10 Section 1770.6. Authorization of Hotel Tax.--(a) Except as  
11 provided for in section 1770.7, the county commissioners of any  
12 county may impose an excise tax on the consideration received by  
13 each operator of a hotel, as defined by this section, from each  
14 transaction of renting a room or rooms to accommodate  
15 transients. If levied, the tax shall be collected by the  
16 operator from the patron of the room and paid over to the county  
17 and shall be known as the hotel room rental tax.

18 (b) The rate of the tax imposed under this section shall not  
19 exceed three per centum.

20 (c) The treasurer of each county electing to impose the tax  
21 authorized under this section shall collect the tax and deposit  
22 the revenues received from the tax in a special fund established  
23 for that purpose. Subsequent to the deduction for administrative  
24 costs established in subsection (e), the county shall distribute  
25 to the recognized tourist promotion agency all revenues received  
26 from the tax not later than sixty days after receipt of the tax  
27 revenues. The revenues from the special fund shall be used by  
28 the recognized tourist promotion agency for any or all of the  
29 following purposes:

30 (1) Convention promotion.

1 (2) Marketing the area served by the agency as a leisure  
2 travel destination.

3 (3) Marketing the area served by the agency as a business  
4 travel destination.

5 (4) Using all appropriate marketing tools to accomplish  
6 these purposes, including, but not limited to, advertising,  
7 publicity, publications, direct marketing, direct sales and  
8 participation in industry trade shows.

9 (5) Projects or programs that are directly and substantially  
10 related to tourism within the county, augment and do not unduly  
11 compete with private sector tourism efforts and improve and  
12 expand the county as a destination market.

13 (6) Any other tourism marketing or promotion program deemed  
14 necessary by the recognized tourist promotion agency.

15 (d) Each tax year for any tax imposed hereunder shall run  
16 concurrently with the county's fiscal year.

17 (d.1) An audited report on the income and expenditures  
18 incurred by a recognized tourist promotion agency receiving any  
19 revenues from the tax authorized under this section shall be  
20 submitted annually by the recognized tourist promotion agency to  
21 the county commissioners.

22 (e) For the purposes of defraying the costs associated with  
23 the collection of the tax imposed hereunder and otherwise  
24 performing its obligations under this section, the county is  
25 hereby authorized to deduct and retain an administrative fee  
26 from the taxes collected hereunder. Such administrative fee  
27 shall be established by the county but shall not exceed in any  
28 tax year the lesser of:

29 (1) two per centum of all taxes collected hereunder; or

30 (2) forty thousand dollars (\$40,000), which amount shall be

1 adjusted biannually, beginning two years after the date of  
2 enactment, by the percentage growth in the Consumer Price Index  
3 for All Urban Consumers as determined by the United States  
4 Department of Labor.

5 (f) Definitions.--As used in this section, the following  
6 words and phrases shall have the meanings given to them in this  
7 subsection:

8 "Bed and breakfast" or "homestead." A public accommodation  
9 consisting of a private residence, which contains ten or fewer  
10 bedrooms, used for providing overnight accommodations to the  
11 public and in which breakfast is the only meal served and is  
12 included in the charge for the room.

13 "Consideration." Receipts, fees, charges, rentals, leases,  
14 cash, credits, property of any kind or nature or other payment  
15 received by operators in exchange for or in consideration of the  
16 use or occupancy by a transient of a room or rooms in a hotel  
17 for any temporary period.

18 "County." Any county of the third class through the eighth  
19 class which on the effective date of this section does not have  
20 the authority to levy a hotel occupancy or room rental tax.

21 "Hotel." A hotel, motel, bed and breakfast, homestead, inn,  
22 guest house or other structure which holds itself out by any  
23 means, including advertising, license, registration with an  
24 innkeepers' group, convention listing association, travel  
25 publication or similar association or with a government agency,  
26 as being available to provide overnight lodging or use of  
27 facility space for consideration to persons seeking temporary  
28 accommodation; any place which advertises to the public at large  
29 or any segment thereof that it will provide beds, sanitary  
30 facilities or other space for a temporary period to members of



1 the public at large; or any place recognized as a hostelry. The  
2 term does not include any portion of a facility that is devoted  
3 to persons who have an established permanent residence or a  
4 college or university student residence hall or any private  
5 campground or any cabins, public campgrounds or other facilities  
6 located on State land.

7 "Occupancy." The use or possession or the right to the use  
8 or possession by any person other than a permanent resident of  
9 any room in a hotel for any purpose or the right to the use or  
10 possession of the furnishings or to the services accompanying  
11 the use and possession of the room.

12 "Operator." An individual, partnership, nonprofit or profit-  
13 making association or corporation or other person or group of  
14 persons who maintain, operate, manage, own, have custody of or  
15 otherwise possess the right to rent or lease overnight  
16 accommodations in a hotel to the public for consideration.

17 "Patron." A person who pays the consideration for the  
18 occupancy of a room or rooms in a hotel.

19 "Permanent resident." A person who has occupied or has the  
20 right to occupancy of a room or rooms in a hotel as a patron or  
21 otherwise for a period exceeding thirty consecutive days.

22 "Recognized tourist promotion agency." The nonprofit  
23 corporation, organization, association or agency which is  
24 engaged in planning and promoting programs designed to stimulate  
25 and increase the volume of tourist, visitor and vacation  
26 business within counties served by the agency as that term is  
27 defined in the act of April 28, 1961 (P.L.111, No.50), known as  
28 the "Tourist Promotion Law."

29 "Room." A space in a hotel set aside for use and occupancy  
30 by patrons, or otherwise, for consideration, having at least one

1 bed or other sleeping accommodation in a room or group of rooms.

2 "Transaction." The activity involving the obtaining by a  
3 transient or patron of the use or occupancy of a hotel room from  
4 which consideration is payable to the operator under an express  
5 or an implied contract.

6 "Transient." An individual who obtains accommodation in a  
7 hotel by means of registering at the facility for the temporary  
8 occupancy of a room for the personal use of the individual by  
9 paying a fee to the operator.

10 "Treasurer." The elected treasurer of the county or, if  
11 there is no elected treasurer of the county, such other official  
12 or agent of the county as may be designated by the county to  
13 collect and account for the tax authorized by this section.]

14 Section 2. The act is amended by adding sections to read:

15 Section 1770.10. Hotel Room Rental Tax in Third through  
16 Eighth Class Counties.--(a) A county may, by ordinance, impose  
17 a tax which shall be known as the hotel room rental tax on the  
18 consideration received by each operator of a hotel within the  
19 county from each transaction of renting a room or rooms to  
20 accommodate transients. The tax shall be collected by the  
21 operator from the patron of the room and paid over to the county  
22 where the hotel is located as provided under this section.

23 (b) The rate of tax imposed under this section shall not  
24 exceed five per centum.

25 (c) The treasurer of each county electing to impose the tax  
26 authorized under this section shall collect the tax and deposit  
27 the revenues received from the tax in a special fund established  
28 for that purpose. Subsequent to the deduction for administrative  
29 costs established in subsection (g), the county shall distribute  
30 to the recognized tourist promotion agency all revenues received

1 from the tax not later than sixty days after receipt of the tax  
2 revenues.

3 (d) The revenues from the special fund shall be used by the  
4 recognized tourist promotion agency for any of the following  
5 purposes:

6 (1) Marketing the area served by the agency as a leisure  
7 travel destination.

8 (2) Marketing the area served by the agency as a business,  
9 convention or meeting travel destination.

10 (3) Using all appropriate marketing tools to accomplish  
11 these purposes, including, but not limited to, advertising,  
12 publicity, publications, direct marketing, sales, technology and  
13 participation in industry trade shows that attract tourists to  
14 the area served by the agency.

15 (4) Programs or grants that are directly and substantially  
16 related to tourism within the county, augment and do not compete  
17 with private sector tourism efforts and improve and expand the  
18 county as a destination market as deemed necessary by the  
19 recognized tourist promotion agency.

20 (5) Any other tourism marketing or promotion program or  
21 project that does not compete with private sector tourism  
22 efforts as deemed necessary by the recognized tourist promotion  
23 agency.

24 (e) Each taxable year for any tax imposed under this section  
25 shall run concurrently with the county's fiscal year.

26 (f) An audited report or financial statement, as determined  
27 by the county in consultation with the recognized tourist  
28 promotion agency, on the income and expenditures incurred by a  
29 recognized tourist promotion agency receiving any revenues from  
30 the tax authorized under this section shall be submitted

1 annually by the recognized tourist promotion agency to the  
2 county commissioners.

3 (g) For the purposes of defraying the costs associated with  
4 the collection of the tax imposed under this section and  
5 otherwise performing its obligations under this section, the  
6 county may deduct and retain an administrative fee from the  
7 taxes collected under this section. The administrative fee shall  
8 be established by the county but shall not exceed five per  
9 centum in any taxable year.

10 (h) A penalty of one and one-half per centum per month shall  
11 be imposed for failure to timely collect and remit the tax  
12 authorized by this section. In addition to other remedies  
13 available for collection of debts, the county may file a lien  
14 upon the hotel in the name of the county and for the use of the  
15 county as provided by law.

16 (i) The following words and phrases when used in this  
17 section shall have the meanings given to them in this subsection  
18 unless the context clearly indicates otherwise:

19 "Bed and breakfast" or "homestead." A public accommodation  
20 consisting of a private residence, which contains ten or fewer  
21 bedrooms, used for providing overnight accommodations to the  
22 public and in which breakfast is the only meal served and is  
23 included in the charge for the room.

24 "CABIN." A PERMANENT STRUCTURE WITH BEDS LOCATED ON A  
25 CAMPGROUND ON STATE LAND OR PRIVATE PROPERTY THAT IS AVAILABLE  
26 TO PROVIDE OVERNIGHT LODGING FOR CONSIDERATION TO PERSONS  
27 SEEKING TEMPORARY ACCOMMODATIONS.

28 "Consideration." Receipts, fees, charges, rentals, leases,  
29 cash, credits, property of any kind or nature or other payment  
30 received by operators in exchange for or in consideration of the

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1 use or occupancy by a transient of a room or rooms in a hotel  
2 for a temporary period.

3 "County." Any county of the third through eighth class that  
4 was authorized to levy a hotel occupancy or room rental tax  
5 under the former section 1770.2 or 1770.6.

6 "Hotel." A hotel, motel, inn, guesthouse, rooming house, bed  
7 and breakfast, homestead or other structure which holds itself  
8 out by any means, including advertising, license, registration  
9 with an innkeepers' group, convention listing association,  
10 travel publication or similar association or with a government  
11 agency, as being available to provide overnight lodging for  
12 consideration to persons seeking temporary accommodation; any  
13 place which advertises to the public at large or any segment  
14 thereof that it will provide beds, sanitary facilities or other  
15 space for a temporary period to members of the public at large;  
16 any place recognized as a hostelry; or ~~any private campground or~~ <--  
17 ~~any cabins, public campgrounds or cabins or other facilities~~ ANY <--  
18 CABINS ON CAMPGROUNDS located on State land or private property.  
19 The term does not include any charitable institution, or portion  
20 of a facility that is devoted to persons who have an established  
21 permanent residence or a college or university student residence  
22 hall currently occupied by students enrolled in a degree  
23 program, ~~or~~ an educational or religious institution summer camp <--  
24 for children, hospital ~~or~~, nursing home OR PART OF A CAMPGROUND <--  
25 THAT IS NOT A CABIN.

26 "Marketing." An action by a recognized tourism promotion  
27 agency that includes, but is not limited to, promoting and  
28 encouraging visitors to visit a specific county, counties or  
29 geographic region.

30 "Occupancy." The use or possession or the right to the use

1 or possession by any person other than a permanent resident of  
2 any room in a hotel for any purpose or the right to the use or  
3 possession of the furnishings or to the services accompanying  
4 the use and possession of the room.

5 "Operator." Any individual, partnership, nonprofit or  
6 profit-making association or corporation or other person or  
7 group of persons who maintain, operate, manage, own, have  
8 custody of or otherwise possess the right to rent or lease  
9 overnight accommodations in a building to the public for  
10 consideration.

11 "Patron." Any person who pays the consideration for the  
12 occupancy of a room or rooms in a hotel.

13 "Permanent resident." A person who has occupied or has the  
14 right to occupancy of a room or rooms in a hotel as a patron or  
15 otherwise for a period exceeding thirty consecutive days.

16 "Recognized tourist promotion agency." The nonprofit  
17 corporation, organization, association or agency which is  
18 engaged in planning and promoting programs designed to stimulate  
19 and increase the volume of tourist, visitor and vacation  
20 business within a county and certified by the county as of the  
21 effective date of this subsection or under section 1770.11.

22 "Room." A space in a building set aside for use and  
23 occupancy by patrons or otherwise, for consideration, having at  
24 least one bed or other sleeping accommodations provided; ~~er, in~~ <--  
25 campgrounds, a space of land set aside for occupancy by patrons  
26 or otherwise for consideration.

27 "Transaction." The activity involving the obtaining by a  
28 transient or patron of the use or occupancy of a hotel room from  
29 which consideration emanates to the operator under an expressed  
30 or implied contract.

1 "Transient." An individual who obtains accommodation in a  
2 hotel by means of registering at the facility for the temporary  
3 occupancy of a room for the personal use of the individual by  
4 paying a fee to the operator.

5 Section 1770.11. Certification of Recognized Tourist  
6 Promotion Agencies.--(a) A county may certify a nonprofit  
7 corporation, organization, association or agency to serve as the  
8 county's recognized tourist promotion agency. The county may not  
9 have more than one recognized tourist promotion agency.

10 (b) (1) A county must certify a recognized tourist  
11 promotion agency under subsection (a) by proper resolution of  
12 the governing body of the county, concurred in by resolution of  
13 the governing bodies of cities, boroughs, towns or townships  
14 within the county which have an aggregate of more than fifty per  
15 centum of the total population of the county as determined by  
16 the most recently completed Federal decennial census.

17 (2) A recognized tourist promotion agency shall operate  
18 until that agency has dissolved as an entity, withdrawn its  
19 certification or has been decertified by the county under  
20 subsection (c).

21 (c) (1) Notwithstanding any other provision of law, a  
22 county may decertify a recognized tourist promotion agency by  
23 proper resolution of the governing body of a county, concurred  
24 in by resolution of the governing bodies of cities, boroughs,  
25 towns or townships within the county which have an aggregate of  
26 more than sixty-five per centum of the total population of the  
27 county as determined by the most recently completed Federal  
28 decennial census.

29 (2) The county shall hold at least one public hearing on  
30 decertification no less than seven days before a meeting to

1 adopt a resolution under this subsection.

2 (3) This subsection shall apply to recognized tourist  
3 promotion agencies, regardless of the date on which they were  
4 recognized under the act of July 4, 2008 (P.L.621, No.50), known  
5 as the "Tourism Promotion Act," or certified by the county under  
6 this section.

7 Section 3. Nothing in this act shall be construed to require  
8 a county that has imposed a tax under the former section 1770.2  
9 or 1770.6 to enact a new ordinance to impose the tax under  
10 section 1770.10 if all of the following apply:

11 (1) The tax rate in the ordinance imposing the tax under  
12 the former section 1770.2 or 1770.6 has not changed.

13 (2) The ordinance imposing the tax under the former  
14 section 1770.2 or 1770.6 is otherwise consistent with section  
15 1770.10.

16 Section 4. This act shall take effect immediately.